# CHAPTER 5: SARA Title III – Emergency Planning and Community Right-to-Know Act

### **Purpose and Applicability of Regulations**

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted by Congress in 1980 to clean up the nation's hazardous waste sites and to provide for emergency response to releases of hazardous substances into the environment. CERCLA is also called Superfund, and the hazardous waste sites are known as Superfund sites. In response to continuing community concern regarding hazardous materials and chemical release tragedies, a reauthorization and expansion of Superfund was signed into law in 1986. It is known as the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA ("SARA Title III") is the Emergency Planning and Community Right-To-Know Act (EPCRA).



SARA Title III establishes requirements for federal, state, and local governments, Indian tribes, and industry regarding emergency planning and "Community Right-to-Know" reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.

#### Agencies and Their Laws and Rules

#### **Federal Agencies**

The U.S. Environmental Protection Agency (EPA) enforces SARA Title III in Michigan. The regulations implementing SARA Title III are codified in Title 40 of the Code of Federal Regulations, Parts 350 through 372.

#### **State Agencies**

SARA Title III is a federal act that is implemented in Michigan under an executive order from the Governor. In accordance with the act, the Governor established a State Emergency Response Commission (SERC). The SERC has 17 commissioners appointed by the Governor and is chaired by a representative of the Michigan State Police (MSP). The MSP Emergency Management and Homeland Security Division (EMHSD) oversees the emergency planning requirements in SARA Title III. The vice chair is a representative of the Department of Environmental Quality (DEQ). The DEQ

#### In This Chapter...

- Purpose and Applicability of Regulations
- Agencies and Their Laws and Rules
- 5.1 What Does SARA Title III Cover?
- 5.2 Emergency Planning (Sections 302 & 303)
- 5.3 Emergency Release Notification (Section 304)
- 5.4 Hazardous Chemical Inventory (Sections 311 & 312)
- 5.5 Toxic Chemical Inventory (Section 313)
- Where To Go For Help

Environmental Science and Services Division, **Michigan SARA Title III Program**, handles the reporting requirements in SARA Title III and **receives all reports on behalf of the SERC**.

#### **Local Agencies**

SARA Title III requires that the SERC establish Local Emergency Planning Committees (LEPCs). There are 88 LEPCs in Michigan – one for each of the 83 counties, as well as LEPCs for the cities of Ann Arbor, Detroit, Grand Rapids, Romulus, and Wayne.

#### 5.1 What Does SARA Title III Cover?

SARA Title III has four major components:

- Emergency planning (Sections 302 & 303)
- Emergency release notification (Section 304)
- Hazardous chemical inventory (Sections 311 & 312)
- Toxic chemical release inventory (Section 313)

The reporting requirements for each of these sections are summarized in Table 5.1. The chemicals covered by each of the sections are different, as are the quantities that trigger reporting. Details of these reporting requirements are covered in the discussion below and in the flow charts at the end of this chapter.

TABLE 5.1 SARA TITLE III REPORTING REQUIREMENTS						
SARA Title III Section	Report Requirement	Report Form	Report Due	Agencies to Receive Report		
302	Emergency Planning Notification	Emergency Planning Notification	Within 60 days after threshold reached	Michigan SARA Title III Program	Local Emergency Planning Committee (LEPC)	
304	Emergency Chemical Release - Initial Notification		Within 15 minutes after discovery	Pollution Emergency Alerting System (PEAS) at 800-292-4706 (in-state) or 517-373-0440 (out-of-state)	All LEPCs potentially affected by the release	U.S. Coast Guard National Response Center (NRC) at 800-424- 8802
304	Emergency Chemical Release - Written Follow- up	Spill or Release Report	Within 7 days after the release	Michigan SARA Title III Program	All LEPCs affected by the release	
311	Material Safety Data Sheet Reporting		Within 3 months after threshold reached	Michigan SARA Title III Program	LEPC	Local Fire Department

TABLE 5.1 SARA TITLE III REPORTING REQUIREMENTS (continued)						
SARA Title III Section	Report Requirement	Report Form	Report Due	Agencies to Receive Report		
312	Tier Two - Emergency Planning & Hazardous Chemical Inventory	Tier Two	Annually, by March 1	Michigan SARA Title III Program	LEPC	Local Fire Department
313	Toxic Chemical Release Inventory Form R	Form R	Annually, by July 1	Michigan SARA Title III Program	EPA TRI Data Processing Center	

### 5.2 Emergency Planning (Sections 302 & 303)

Off-site emergency response plans contain information that community officials can use at the time of a chemical accident. These plans are developed by LEPCs for the protection of the community and address the off-site response to emergency releases of **extremely hazardous substances** from certain facilities in their planning districts. On-site emergency response plans are the responsibility of the facilities and are not addressed in SARA Title III (see Section 6.2).

There are 355 **extremely hazardous substances** listed by EPA in 40 CFR 355, Appendix A. The list includes the threshold planning quantity for each substance. If your facility has any of the listed chemicals at or above its threshold planning quantity, you must notify the Michigan SARA Title III Program and your LEPC. This one-time notification must be made within 60 days after you first receive a shipment or produce the substance on site that causes your facility to meet



or exceed the threshold planning quantity for that substance. The LEPC must then include information about your facility in their community emergency response plan.

You may use the "SARA Title III – Section 302 Emergency Planning Notification" to notify the Michigan SARA Title III Program and your LEPC that your facility is subject to the emergency planning provisions of SARA Title III. The notification form and the list of extremely hazardous substances with associated threshold planning quantities are available at www.michigan.gov/deqemergencyplan, click on "SARA Title III Emergency Planning & Notification."

## 5.3 Emergency Release Notification (Section 304)

If there is a release of a hazardous substance from your facility into the environment that is equal to or exceeds the minimum reportable quantity set in the regulations, you must immediately (within 15 minutes of discovery) call the DEQ Pollution Emergency Alerting System (PEAS) and any LEPCs with jurisdiction over the area potentially affected by the release. This requirement covers the 355 extremely hazardous substances as well as over 770 listed hazardous substances-CERCLA subject to the emergency release notification requirements under CERCLA Section 103(a) (40 CFR 302.4). Some chemicals are common to both lists. Emergency release notification requirements involving transportation incidents can be met by dialing 911. Releases of the hazardous substances-CERCLA must also be immediately reported to the U.S. Coast Guard National Response Center. Initial notification can be made by telephone, radio, or in person.

A written follow-up release report must be submitted to the Michigan SARA Title III Program and the LEPC(s) as soon as practicable (within 7 days) after the release. The follow-up report must update information included in the initial notice and provide information on the actual response actions taken and advice regarding medical attention necessary for citizens exposed to the released chemical.

The reportable quantities for the chemicals covered by Section 304 of SARA Title III are included in the List of Lists. The List of Lists, as well as a form that can be used for the follow-up release report, are available at <a href="https://www.michigan.gov/deqrelease">www.michigan.gov/deqrelease</a>. See Section 6.3 for a summary of all chemical release notification requirements found in rules and regulations that apply in Michigan.

## 5.4 Hazardous Chemical Inventory (Sections 311 & 312)

Hazardous chemical inventory reporting applies to any facility that is required to maintain a material safety data sheet (MSDS) in accordance with the Occupational Safety and Health Administration (OSHA) hazard communication standard. Pursuant to this requirement, over 6,000 facilities in Michigan submit hazardous chemical inventories to the Michigan SARA Title III Program, LEPCs, and local fire departments. These inventories provide valuable information to the first responders and the community regarding chemical release hazard potential.

#### 5.4.1 What Chemicals Are Included

Under OSHA regulations, employers must maintain an MSDS for any hazardous chemical or substance stored or used in the work place. Over 650,000 products have MSDSs required by OSHA. These are referred to here as **hazardous chemicals-OSHA**. There is *no list* of these **hazardous chemicals-OSHA**.

Sections 311 and 312 of SARA Title III require that owners or operators of facilities submit <u>initial</u> <u>and annual</u> reports of the **hazardous chemicals-OSHA** if they exceed certain thresholds. The thresholds refer to the total amount of chemical on site, in storage and in process, at any one given time. The thresholds for reporting under Sections 311 and 312 are:

• Extremely hazardous substance (EHS) = 500 pounds or the threshold planning quantity (TPQ), whichever is less. EHSs and TPQs are included in the List of Lists.

- Gasoline at retail gas stations, if all gasoline is stored in compliant underground storage tanks = 75,000 gallons.
- Diesel fuel at retail gas stations, if all diesel fuel is stored in compliant underground storage tanks = 100,000 gallons.
- All other hazardous chemicals-OSHA (except as stated below) = 10,000 pounds.
- The threshold for reporting in response to a request from the SERC, LEPC, or local fire department = zero. Regardless of the amount of chemical on site, you must submit a report if you are asked to do so by one of these agencies.

The thresholds for most substances are in pounds. What if your substance is in liquid form and you only know the number of gallons? You will need to convert gallons to pounds by using this formula:

#### Specific gravity of product x 8.34 lb/gal (weight of water) = weight of product in lb/gal

The specific gravity (also called relative density) can be found in the "Physical & Chemical Properties" section of the MSDS. It is a unit-less number that tells how much the substance weighs relative to the weight of water. If the specific gravity is 1, the substance weighs the same as water. If it is less than 1, then the substance weighs less than water. The specific gravity is often reported as a range. Use the highest value in the calculation.

#### 5.4.2 What Chemicals Are Excluded

The following substances are excluded from the hazardous chemical inventory reporting requirements:

- Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.
- Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
- Any substance to the extent it is used for personal, family, or household purposes, or is
  present in the same form and concentration as a product packaged for distribution and use
  by the general public.
- Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
- Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

## 5.4.3 Initial Report of Hazardous Chemicals

It is especially important for the safety of facility personnel, the community, and the first responders, that your community emergency planners know what hazardous chemicals are in your facility in amounts that could potentially impact the community. Section 311 requires that facilities submit an <u>initial</u> report of **hazardous chemicals-OSHA** on site in amounts greater than the above thresholds to:

- The Michigan SARA Title III Program
- Their LEPC
- Their local fire department.

This report must be submitted within 3 months after the chemical threshold is exceeded.

The initial report consists of either copies of the MSDSs or a list of the **hazardous chemicals-OSHA**. If the facility owner or operator chooses to submit a list, the list must include the chemical or common name of each substance and must identify the applicable hazard categories. These hazard categories are:

- Fire Hazard
- Sudden Release of Pressure
- Reactive
- Immediate (Acute) Health Hazard
- Delayed (Chronic) Health Hazard

Michigan prefers that facilities submit a list of chemicals rather than the MSDSs. Only new chemicals that are not already included in the annual report should be included in the initial report.

### 5.4.4 Annual Report of Hazardous Chemicals

Section 312 requires that facilities with **hazardous chemicals-OSHA** on site in amounts greater than the above thresholds submit <u>annually</u> an Emergency and Hazardous Chemical Inventory to:

- The Michigan SARA Title III Program,
- Their LEPC, and
- Their local fire department.

The inventory is submitted on a Tier Two report form by March 1, and includes information about the amount and storage of all **hazardous chemicals-OSHA** that exceeded the applicable thresholds during the previous calendar year.

Michigan prefers that facilities submit the Tier Two data online via <u>Tier II Manager™</u> to the Michigan SARA Title III Program. Some counties will also have access to online reports, so you will not need to mail paper copies of your report to LEPCs and fire departments in these counties. For the latest online reporting information, including a list of the participating counties, contact the Michigan SARA Title III Program or visit their web site and click on the Hazardous Chemical Inventory link. Do not use EPA's software to report electronically in Michigan.

## 5.5 Toxic Chemical Release Inventory (Section 313)

Section 313, commonly referred to as the Toxic Chemical Release Inventory or TRI, requires certain facilities to complete a report annually for specified chemicals. The report must be submitted to both EPA and the Michigan SARA Title III Program by July 1, and covers releases and other waste management of **toxic chemicals** during the preceding calendar year. Facilities also must report information on source reduction, recycling, and treatment under the Pollution Prevention Act of 1990. One purpose of this reporting is to inform the public and communities surrounding covered facilities about **toxic chemicals** at individual facilities, their uses, and

releases into the environment. The EPA maintains the information in a national TRI database that is available to the public. The state of Michigan also makes the information available to the public. TRI data is available on the Internet and in published reports.

#### 5.5.1 Subject Facilities

The TRI reporting requirement applies to facilities that have 10 or more full-time employees (or the equivalent of 20,000 hours per year), that manufacture (including import), process, or otherwise use a listed **toxic chemical** above threshold quantities, and that are in one of the following sectors:

- Manufacturing (Standard Industrial Classification (SIC) codes 20 through 39)
- Metal mining (SIC code 10, except for SIC codes 1011, 1081, and 1094)
- Coal mining (SIC code 12, except for 1241)
- Electrical utilities that combust coal and/or oil for the purpose of generating electricity for distribution into commerce (SIC codes 4911, 4931, and 4939)
- Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste treatment and disposal facilities (SIC code 4953)
- Chemicals and allied products wholesale distributors (SIC code 5169)
- Petroleum bulk plants and terminals (SIC code 5171)
- Solvent recovery services (SIC code 7389 limited to facilities primarily engaged in solvent recovery services on a contract or fee basis)
- Federal facilities that meet the activity thresholds also must report by executive order.

## 5.5.2 Toxic Chemicals and Reporting Thresholds

There are about 650 **toxic chemicals** and chemical categories covered by Section 313. These chemicals are listed in 40 CFR 372.65. Special chemicals of concern that are identified as persistent, bioaccumulative and toxic (PBT) are listed in 40 CFR 372.28. The List of Lists mentioned earlier identifies the Section 313 chemicals.

A facility must report if it manufactures (including imports) or processes more than 25,000 pounds or otherwise uses more than 10,000 pounds of a non-PBT **toxic chemical** during the calendar year. Lower thresholds are established for PBT chemicals regardless of activity; the thresholds are specified in 40 CFR 372.28 and in Table 2 at the end of this chapter.

The EPA can add, remove, or modify the list of **toxic chemicals** that must be reported. Facilities should check each year for any changes to the Section 313 chemicals and chemical categories and reporting requirements.

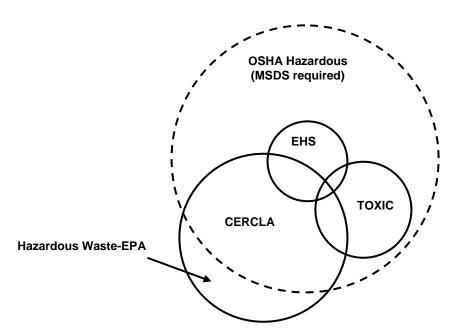
EPA has proposed burden reduction options that might affect the reporting criteria and frequency of reporting. The rulemaking could take effect beginning with the 2005 report year. Visit the Michigan SARA Title III Program's web site for the current status of this proposed rulemaking.

## 5.5.3 Toxic Chemical Release Inventory Report

If you meet the above criteria, you need to submit the "Form R - Toxic Chemical Release Inventory Reporting Form" by July 1 to EPA and the Michigan SARA Title III Program. A report form must be submitted for each chemical that exceeds an activity threshold. Each year, the EPA mails the reporting packet (form, instructions, and software) to companies that submitted reports the previous year. These can also be downloaded from the EPA TRI Program web site (www.epa.gov/tri). Facilities must use the most current report form. Facilities that have not previously reported should contact the Michigan SARA Title III Program for reporting information.

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## **Summary of Chemicals Covered by SARA Title III Requirements**



On the above diagram, the large circle outlined with the dashed line represents the universe of **hazardous chemicals-OSHA**. These chemicals are subject to Tier Two Emergency and Hazardous Chemical Inventory reporting. The line is dashed because there is no list of these chemicals.

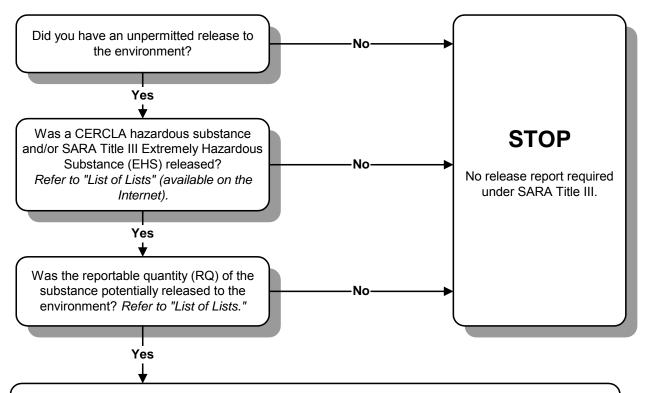
The **extremely hazardous substances** (EHS on the diagram) are listed, so the circle is outlined with a solid line. Each EHS has an associated threshold planning quantity for emergency planning and a reportable quantity for release reporting. The EHSs are also subject to Tier Two Emergency and Hazardous Chemical Inventory reporting (unless an exemption applies—such as for farming operations).

The hazardous substances-CERCLA are listed and have associated reportable quantities for release reporting. Part of the CERCLA group falls outside of the OSHA group. OSHA does not require that MSDSs be maintained for hazardous waste that is subject to Resource Conservation and Recovery Act (RCRA) regulations, so hazardous waste-EPA is not required to be reported on the Tier Two report. However, if there is a release of the hazardous waste-EPA that is above the listed reportable quantity, that release must be reported.

The **toxic chemicals** and chemical categories (Toxic on the diagram) are listed. "Subject facilities" submit a Toxic Chemical Release Inventory (TRI) report for each **toxic chemical** that exceeds an activity threshold.

## Release Reporting SARA Title III - Section 304

Title III of the Superfund Amendments & Reauthorization Act ("SARA Title III") is the Emergency Planning and Community Right-to-Know Act (EPCRA)



#### Immediately report the release to:

- Local Emergency Planning Committee (LEPC) in area(s) potentially affected by the release.
- DEQ Pollution Emergency Alerting System (PEAS)

**PEAS 800-292-4706** (Out of state 517-373-7660)

- U.S. Coast Guard National Response Center (NRC) if a CERCLA hazardous substance is released. NRC 800-424-8802

Submit a written follow-up report to the LEPC and the Michigan SARA Title III program.

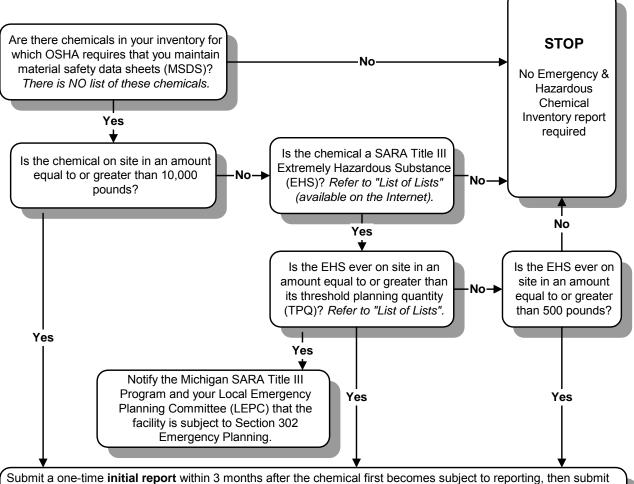
Note: The Michigan SARA Title III Program receives reports on behalf of the State Emergency Response Commission (SERC).

For SARA Title III information on the Internet, go to:

- www.michigan.gov/degsara
- www.michigan.gov/deqrelease
- www.michigan.gov/deqemergencyplan

## Emergency and Hazardous Chemical Inventory Reporting SARA Title III - Sections 311 and 312

Title III of the Superfund Amendments & Reauthorization Act ("SARA Title III") is the Emergency Planning and Community Right-to-Know Act (EPCRA)



annual report by March 1st to: the Michigan SARA Title III Program, your LEPC, and your local fire department.

- Initial report = MSDS or list of chemicals and associated hazards.
- Annual report = Tier Two Emergency & Hazardous Chemical Inventory. Some exemptions might apply.

Note: The Michigan SARA Title III Program receives all reports on behalf of the State Emergency Response Commission (SERC).

 Michigan SARA Title III Program Department of Environmental Quality P.O. Box 30457

Lansing, Michigan 48909-7957

Phone: 517-373-8481

E-mail: deq-ead-sara@michigan.gov

- U.S. Environmental Protection Agency EPCRA Call Center 800-424-9346
- LEPC contact information available on the Internet

## Toxic Chemical Release Inventory Reporting SARA Title III - Section 313

Title III of the Superfund Amendments & Reauthorization Act ("SARA Title III") is the Emergency Planning and Community Right-to-Know Act (EPCRA)

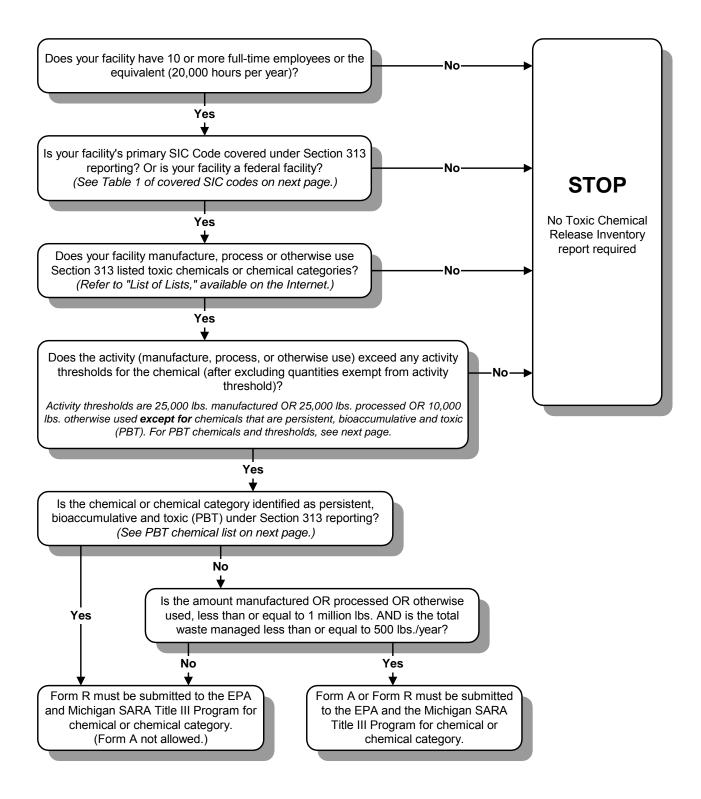


Table 1. EPCRA Section 313 Covered Industries by Classification

Industry	SIC Codes	NAICS
Manufacturing	20-39	311-339
Metal Mining	10 (except 1011, 1081, and 1094)	21222, 21229, 21223, 21229
Coal Mining	12 (except 1241)	21211
Electrical utilities	4911, 4931, and 4939	22111, 22112
	(limited to facilities that combust coal and/or oil	
	for purpose of generating electricity for	
	distribution in commerce)	
Treatment, storage and	4953	56221
disposal facilities	(limited to RCRA Subtitle C permitted or	
	interim status facilities)	
Chemical distributors	5169	42469
Petroleum bulk terminals	5171	42471
Solvent recovery services	7389	32599
	(limited to facilities primarily engaged in	
	services on a contract or fee basis)	
Federal facilities	Must report by Executive Order 13148.	

Table 2. EPCRA Section 313 Listed PBT Chemicals and Activity Thresholds

and Activity Thresholds					
Chemical	Threshold (in pounds unless otherwise noted)				
ALDRIN	100				
BENZO(G,H,I)PERYLENE ◆	10				
CHLORDANE	10				
DIOXIN AND DIOXIN-LIKE COMPOUNDS ◆	0.1 grams				
HEPTACHLOR	10				
HEXACHLOROBENZENE	10				
ISODRIN	10				
LEAD *	100				
(not contained in stainless steel, bronze, or brass alloy)					
LEAD COMPOUNDS *	100				
MERCURY	10				
MERCURY COMPOUNDS	10				
METHOXYCHLOR	100				
OCTACHLOROSTYRENE ◆	10				
PENDIMETHALIN	100				
PENTACHLOROBENZENE ◆	10				
POLYCHLORINATED BIPHENYLS	10				
POLYCYCLIC AROMATIC COMPOUNDS +	100				
TETRABROMOBISPHENOL A (TBBPA) ◆	100				
TOXAPHENE	10				
TRIFLURALIN	100				

Note: PBT chemical reporting was effective for 2000 except lead and lead compounds which were effective for 2001.

- ♦ New chemical subject to EPCRA Section 313 reporting for 2000.
- + Two new chemicals added to PAC category; 21 chemicals now included in PAC category.
- \* Thresholds effective for 2001 reporting year.

#### **FOR MORE INFORMATION:**

• Michigan SARA Title III Program

Department of Environmental Quality P.O. Box 30457

Lansing, MI 48909-7957

Phone: 517-373-8481

E-mail: deq-ead-sara@michigan.gov Internet: www.michigan.gov/deqsara

 U.S. Environmental Protection Agency

EPCRA Call Center Phones: 800-424-9346

TDD 800-553-7672 or 703-412-3323

Internet: www.epa.gov/tri

## WHERE TO GO FOR HELP

SUBJECT: SARA Title III Reporting

**CONTACT:** DEQ, Michigan SARA Title III Program

(517) 373-8481

www.michigan.gov/deqsara www.michigan.gov/deqrelease

www.michigan.gov/degemergencyplan

**PUBLICATION:** Michigan Facilities' Guide to SARA Title III, Emergency Planning and

Release Reporting

SUBJECT: LEPCs and Community Emergency Plans

**CONTACT:** Michigan State Police, Emergency Management & Homeland Security

Division (EMHSD) (517) 333-2749

www.michigan.gov/emhsd

SUBJECT: SARA Title III

**CONTACT:** EPCRA Call Center

(800) 424-9346 www.epa.gov/ceppo

SUBJECT: SARA Title III Toxic Chemical Release Inventory

**CONTACT:** U.S. Environmental Protection Agency, Toxics Release Inventory (TRI)

Program

(800) 424-9346

WEB SITE: www.epa.gov/tri